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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Redevelopment of Spectrum to)
Encourage Innovation in the Use of)
New Telecommunications Technologies)

ET Docket No. 92-9 ✓

To: The Commission

**REPLY COMMENTS OF AMERICAN PERSONAL COMMUNICATIONS
ON PETITIONS FOR RECONSIDERATION**

American Personal Communications^{1/} ("APC"), hereby submits its reply comments on the petitions for reconsideration and/or clarification in the above-captioned proceeding. APC is a member of the Unlicensed PCS Ad Hoc Committee for 2 GHz Microwave Transition and Management ("UTAM"). APC fully supports UTAM's position, but files separately in order to underscore that the marketplace -- not the Commission -- should decide whether and how to apportion the costs of relocating incumbent microwave licensees operating in both the licensed and unlicensed PCS bands.

APC supports UTAM's need to clear the entire 1890-1930 MHz band nationwide for unlicensed PCS devices. Indeed, APC was the first to propose allocating the lightly encumbered 1910-1930 MHz spectrum to unlicensed PCS. APC Supplement to Petition for Rulemaking, pp. 21-22 (filed May 4, 1992). APC

^{1/} American PCS, L.P., d/b/a American Personal Communications, a limited partnership in which American Personal Communications, Inc. is the general managing partner and The Washington Post Company is an investor/limited partner.

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also supported the grant of a full 40 MHz of spectrum to unlicensed PCS. See APC Comment, Gen. Docket 90-314, p. 20 (Nov. 9, 1992). The Commission also has recognized the unique needs of unlicensed PCS by exempting this spectrum from competitive bidding and by establishing a one-year mandatory negotiation period for relocating incumbent microwave users.

UTAM proposes to require a PCS licensee to compensate unlicensed PCS interests for a proportionate share of the costs of relocating an incumbent that operates in both the licensed and unlicensed PCS bands, provided that the PCS licensee required relocation to meet its spectrum needs. As a general matter, APC agrees that licensed PCS providers should not receive a "free ride" at the expense of UTAM. APC, however, wishes to clarify that the marketplace -- not the Commission -- should determine whether and how to apportion these costs. Unlike unlicensed PCS or MSS services, licensed PCS services can share spectrum with some incumbent microwave users. Consequently, there may be instances where incumbents would be required to relocate in order to provide unlicensed PCS services, even though they could continue to operate in the licensed PCS portion of their spectrum using shared spectrum techniques. In these situations, PCS licensees should not be required to pay a proportionate share of the cost of relocating the incumbent.

Furthermore, the marketplace will ensure that PCS licensees negotiate with UTAM in good faith -- and assume

their proportionate share of the costs -- when their spectrum needs cannot be satisfied without relocating an incumbent microwave licensee operating in both the licensed and unlicensed PCS bands. UTAM will have a stronger bargaining position with these incumbents due to the one-year mandatory nature of the unlicensed PCS negotiations. PCS licensees will cooperate with UTAM in order to capitalize on UTAM's bargaining position and expedite the deployment of their own services. APC thus does not propose to shift the costs of any required relocations, but instead, wants to ensure that PCS licensees are not required to pay for relocations that are not necessary to satisfy their spectrum needs.^{2/}

* * *

APC looks forward to working with UTAM to clear spectrum for licensed and unlicensed PCS services. However, APC believes that this goal can be achieved most effectively by allowing the marketplace to determine whether PCS licensees should compensate unlicensed PCS interests for a proportionate

^{2/}APC also questions the practicality of requiring a PCS licensee to compensate unlicensed PCS interests for a proportionate share of the cost of relocating an incumbent that operates in both the licensed and unlicensed PCS bands. In some markets a PCS licensee may not commence service until after the deployment of unlicensed PCS devices. At the time the unlicensed PCS band is cleared, the spectrum needs of these PCS licensees would not require relocation. Administration of a Commission requirement for these PCS licensees to pay for relocation of incumbents either before they ascertain their spectrum needs or after the band already has been cleared for unlicensed PCS service could be extremely difficult to administer.

share of the costs of relocating incumbent microwave licensees that operates in both the licensed and unlicensed PCS bands.

Respectfully submitted,

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November 19, 1993

CERTIFICATE OF SERVICE

I hereby certify that I am an attorney with the law offices of Covington & Burling, and that on this 19th day of November, 1993, I caused to be mailed by first class United States mail, postage prepaid, a copy of the foregoing "Reply Comments of American Personal Communications on Petitions for Reconsideration" to the following:

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